Case 1:05-cv-05231-RJS Document 42 Filed 11/16/05 Page 1 of 2 USDC SDNY DOCUMENT UNITED STATES DISTRICT COURT ELECTRONICALLY FILED SOUTHERN DISTRICT OF NEW YORK DATE FILED: SECURITIES AND EXCHANGE COMMISSION : ECF Case Plaintiff, - against -: 05 Civ. 5231 (LTS)(DFE) AMERINDO INVESTMENT ADVISORS INC., ALBERTO W. VILAR, and GARY ALAN TANAKA, Defendants.

[PROPOSED] ORDER ALLOWING THE PLAINTIFF
SECURITIES AND EXCHANGE COMMISSION
TO FILE AN AMENDED COMPLAINT

On the application of plaintiff Securities and Exchange Commission (the "Commission") for an Order granting the Commission leave to amend its Complaint pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, the Court has considered the "Declaration of Mark D. Salzberg In Support of Plaintiff Securities and Exchange Commission's Motion For Leave to Amend the Complaint" and the exhibits attached thereto. Based upon the foregoing documents and the docket in this case, the Court finds that:

- 1) The Commission filed its Complaint against Defendants Amerindo Investment Advisors Inc. ("Amerindo US"), Alberto W. Vilar and Gary Alan Tanaka on June 1, 2005 and properly served these Defendants;
- 2) Defendants Vilar and Tanaka have not filed a responsive pleading to the Complaint;
- 3) Although Amerindo US filed an Answer on August 19, 2005, it has indicated that it does not object to the Commission filing an Amended Complaint; and
 - 4) It is in the interests of justice to permit the Commission to file an Amended

Complaint.

The Court therefore concludes that a proper showing has been made and it is hereby ORDERED:

The Motion is granted; and

The Court hereby grants the Commission leave to file an Amended Complaint.

The Commission shall file and serve its Amended Complaint no later than

November 22,2005; and

The Commission shall serve a copy of this Order on each of the existing Defendants, Amerindo US, Vilar and Tanaka, within ten (10) calendar days following the date of this Order, and a copy of this Order shall be served with the Amended Complaint and any subsequent process that brings in additional parties, and that proof of such service shall be filed with the Court promptly.

Dated: New York, New York November 5, 2005

> LAURA TAYLOR SWAIN United States District Judge